

SB1766



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

SB1766

Introduced 2/15/2013, by Sen. Kwame Raoul

SYNOPSIS AS INTRODUCED:

730 ILCS 5/3-3-2

from Ch. 38, par. 1003-3-2

Amends the Unified Code of Corrections. Makes a technical change in a Section concerning the powers and duties of the Prisoner Review Board.

LRB098 07694 RLC 37767 b

A BILL FOR

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unified Code of Corrections is amended by
5 changing Section 3-3-2 as follows:

6 (730 ILCS 5/3-3-2) (from Ch. 38, par. 1003-3-2)
7 Sec. 3-3-2. Powers and Duties.

8 (a) The Parole and Pardon Board is abolished and the term
9 "Parole and Pardon Board" as used in any law of Illinois, shall
10 read "Prisoner Review Board." After the effective date of this
11 amendatory Act of 1977, the Prisoner Review Board shall provide
12 by rule for the orderly transition of all files, records, and
13 documents of the Parole and Pardon Board and for such other
14 steps as may be necessary to effect an orderly transition and
15 shall:

16 (1) hear by at least one member and through a panel of
17 at least 3 members decide, cases of prisoners who were
18 sentenced under the law in effect prior to the effective
19 date of this amendatory Act of 1977, and who are eligible
20 for parole;

21 (2) hear by at least one member and through a panel of
22 at least 3 members decide, the conditions of parole and the
23 time of discharge from parole, impose sanctions for

1 violations of parole, and revoke parole for those sentenced
2 under the law in effect prior to this amendatory Act of
3 1977; provided that the decision to parole and the
4 conditions of parole for all prisoners who were sentenced
5 for first degree murder or who received a minimum sentence
6 of 20 years or more under the law in effect prior to
7 February 1, 1978 shall be determined by a majority vote of
8 the Prisoner Review Board. One representative supporting
9 parole and one representative opposing parole will be
10 allowed to speak. Their comments shall be limited to making
11 corrections and filling in omissions to the Board's
12 presentation and discussion;

13 (3) hear by at least one member and through a panel of
14 at least 3 members decide, the conditions of mandatory
15 supervised release and the time of discharge from mandatory
16 supervised release, impose sanctions for violations of
17 mandatory supervised release, and revoke mandatory
18 supervised release for those sentenced under the law in
19 effect after the effective date of this amendatory Act of
20 1977;

21 (3.5) hear by at least one member and through a panel
22 of at least 3 members decide, the conditions of mandatory
23 supervised release and the time of discharge from mandatory
24 supervised release, to impose sanctions for violations of
25 mandatory supervised release and revoke mandatory
26 supervised release for those serving extended supervised

1 release terms pursuant to paragraph (4) of subsection (d)
2 of Section 5-8-1;

3 (4) hear by at least one ~~±~~ member and through a panel
4 of at least 3 members, decide cases brought by the
5 Department of Corrections against a prisoner in the custody
6 of the Department for alleged violation of Department rules
7 with respect to sentence credits under Section 3-6-3 of
8 this Code in which the Department seeks to revoke sentence
9 credits, if the amount of time at issue exceeds 30 days or
10 when, during any 12 month period, the cumulative amount of
11 credit revoked exceeds 30 days except where the infraction
12 is committed or discovered within 60 days of scheduled
13 release. In such cases, the Department of Corrections may
14 revoke up to 30 days of sentence credit. The Board may
15 subsequently approve the revocation of additional sentence
16 credit, if the Department seeks to revoke sentence credit
17 in excess of thirty days. However, the Board shall not be
18 empowered to review the Department's decision with respect
19 to the loss of 30 days of sentence credit for any prisoner
20 or to increase any penalty beyond the length requested by
21 the Department;

22 (5) hear by at least one member and through a panel of
23 at least 3 members decide, the release dates for certain
24 prisoners sentenced under the law in existence prior to the
25 effective date of this amendatory Act of 1977, in
26 accordance with Section 3-3-2.1 of this Code;

1 (6) hear by at least one member and through a panel of
2 at least 3 members decide, all requests for pardon,
3 reprieve or commutation, and make confidential
4 recommendations to the Governor;

5 (7) comply with the requirements of the Open Parole
6 Hearings Act;

7 (8) hear by at least one member and, through a panel of
8 at least 3 members, decide cases brought by the Department
9 of Corrections against a prisoner in the custody of the
10 Department for court dismissal of a frivolous lawsuit
11 pursuant to Section 3-6-3(d) of this Code in which the
12 Department seeks to revoke up to 180 days of sentence
13 credit, and if the prisoner has not accumulated 180 days of
14 sentence credit at the time of the dismissal, then all
15 sentence credit accumulated by the prisoner shall be
16 revoked;

17 (9) hear by at least 3 members, and, through a panel of
18 at least 3 members, decide whether to grant certificates of
19 relief from disabilities or certificates of good conduct as
20 provided in Article 5.5 of Chapter V; and

21 (10) upon a petition by a person who has been convicted
22 of a Class 3 or Class 4 felony and who meets the
23 requirements of this paragraph, hear by at least 3 members
24 and, with the unanimous vote of a panel of 3 members, issue
25 a certificate of eligibility for sealing recommending that
26 the court order the sealing of all official records of the

1 arresting authority, the circuit court clerk, and the
2 Department of State Police concerning the arrest and
3 conviction for the Class 3 or 4 felony. A person may not
4 apply to the Board for a certificate of eligibility for
5 sealing:

6 (A) until 5 years have elapsed since the expiration
7 of his or her sentence;

8 (B) until 5 years have elapsed since any arrests or
9 detentions by a law enforcement officer for an alleged
10 violation of law, other than a petty offense, traffic
11 offense, conservation offense, or local ordinance
12 offense;

13 (C) if convicted of a violation of the Cannabis
14 Control Act, Illinois Controlled Substances Act, the
15 Methamphetamine Control and Community Protection Act,
16 the Methamphetamine Precursor Control Act, or the
17 Methamphetamine Precursor Tracking Act unless the
18 petitioner has completed a drug abuse program for the
19 offense on which sealing is sought and provides proof
20 that he or she has completed the program successfully;

21 (D) if convicted of:

22 (i) a sex offense described in Article 11 or
23 Sections 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
24 the Criminal Code of 1961;

25 (ii) aggravated assault;

26 (iii) aggravated battery;

- 1 (iv) domestic battery;
- 2 (v) aggravated domestic battery;
- 3 (vi) violation of an order of protection;
- 4 (vii) an offense under the Criminal Code of
5 1961 involving a firearm;
- 6 (viii) driving while under the influence of
7 alcohol, other drug or drugs, intoxicating
8 compound or compounds or any combination thereof;
- 9 (ix) aggravated driving while under the
10 influence of alcohol, other drug or drugs,
11 intoxicating compound or compounds or any
12 combination thereof; or
- 13 (x) any crime defined as a crime of violence
14 under Section 2 of the Crime Victims Compensation
15 Act.

16 If a person has applied to the Board for a certificate of
17 eligibility for sealing and the Board denies the certificate,
18 the person must wait at least 4 years before filing again or
19 filing for pardon from the Governor unless the Chairman of the
20 Prisoner Review Board grants a waiver.

21 The decision to issue or refrain from issuing a certificate
22 of eligibility for sealing shall be at the Board's sole
23 discretion, and shall not give rise to any cause of action
24 against either the Board or its members.

25 The Board may only authorize the sealing of Class 3 and 4
26 felony convictions of the petitioner from one information or

1 indictment under this paragraph (10). A petitioner may only
2 receive one certificate of eligibility for sealing under this
3 provision for life.

4 (a-5) The Prisoner Review Board, with the cooperation of
5 and in coordination with the Department of Corrections and the
6 Department of Central Management Services, shall implement a
7 pilot project in 3 correctional institutions providing for the
8 conduct of hearings under paragraphs (1) and (4) of subsection
9 (a) of this Section through interactive video conferences. The
10 project shall be implemented within 6 months after the
11 effective date of this amendatory Act of 1996. Within 6 months
12 after the implementation of the pilot project, the Prisoner
13 Review Board, with the cooperation of and in coordination with
14 the Department of Corrections and the Department of Central
15 Management Services, shall report to the Governor and the
16 General Assembly regarding the use, costs, effectiveness, and
17 future viability of interactive video conferences for Prisoner
18 Review Board hearings.

19 (b) Upon recommendation of the Department the Board may
20 restore sentence credit previously revoked.

21 (c) The Board shall cooperate with the Department in
22 promoting an effective system of parole and mandatory
23 supervised release.

24 (d) The Board shall promulgate rules for the conduct of its
25 work, and the Chairman shall file a copy of such rules and any
26 amendments thereto with the Director and with the Secretary of

1 State.

2 (e) The Board shall keep records of all of its official
3 actions and shall make them accessible in accordance with law
4 and the rules of the Board.

5 (f) The Board or one who has allegedly violated the
6 conditions of his parole or mandatory supervised release may
7 require by subpoena the attendance and testimony of witnesses
8 and the production of documentary evidence relating to any
9 matter under investigation or hearing. The Chairman of the
10 Board may sign subpoenas which shall be served by any agent or
11 public official authorized by the Chairman of the Board, or by
12 any person lawfully authorized to serve a subpoena under the
13 laws of the State of Illinois. The attendance of witnesses, and
14 the production of documentary evidence, may be required from
15 any place in the State to a hearing location in the State
16 before the Chairman of the Board or his designated agent or
17 agents or any duly constituted Committee or Subcommittee of the
18 Board. Witnesses so summoned shall be paid the same fees and
19 mileage that are paid witnesses in the circuit courts of the
20 State, and witnesses whose depositions are taken and the
21 persons taking those depositions are each entitled to the same
22 fees as are paid for like services in actions in the circuit
23 courts of the State. Fees and mileage shall be vouchered for
24 payment when the witness is discharged from further attendance.

25 In case of disobedience to a subpoena, the Board may
26 petition any circuit court of the State for an order requiring

1 the attendance and testimony of witnesses or the production of
2 documentary evidence or both. A copy of such petition shall be
3 served by personal service or by registered or certified mail
4 upon the person who has failed to obey the subpoena, and such
5 person shall be advised in writing that a hearing upon the
6 petition will be requested in a court room to be designated in
7 such notice before the judge hearing motions or extraordinary
8 remedies at a specified time, on a specified date, not less
9 than 10 nor more than 15 days after the deposit of the copy of
10 the written notice and petition in the U.S. mails addressed to
11 the person at his last known address or after the personal
12 service of the copy of the notice and petition upon such
13 person. The court upon the filing of such a petition, may order
14 the person refusing to obey the subpoena to appear at an
15 investigation or hearing, or to there produce documentary
16 evidence, if so ordered, or to give evidence relative to the
17 subject matter of that investigation or hearing. Any failure to
18 obey such order of the circuit court may be punished by that
19 court as a contempt of court.

20 Each member of the Board and any hearing officer designated
21 by the Board shall have the power to administer oaths and to
22 take the testimony of persons under oath.

23 (g) Except under subsection (a) of this Section, a majority
24 of the members then appointed to the Prisoner Review Board
25 shall constitute a quorum for the transaction of all business
26 of the Board.

1 (h) The Prisoner Review Board shall annually transmit to
2 the Director a detailed report of its work for the preceding
3 calendar year. The annual report shall also be transmitted to
4 the Governor for submission to the Legislature.

5 (Source: P.A. 96-875, eff. 1-22-10; 97-697, eff. 6-22-12;
6 97-1120, eff. 1-1-13; revised 9-20-12.)